

# SOUTHERN ENVIRONMENTAL LAW CENTER

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THE CANDLER BUILDING  
127 PEACHTREE STREET, SUITE 808  
ATLANTA, GA 30303-1840

Facsimile 404-521-9909

May 13, 2011

U.S. Environmental Protection Agency  
Region 4 Freedom of Information  
SNAFC Bldg. 61 Forsyth Street., S.W.  
9th Floor  
Atlanta, GA 30303-8960

NO. 00513-11  
6/14/11  
Other  
JP  
CC

VIA U.S. Mail and FACSIMILE: (404) 562-8054

Re: Freedom of Information Act Request - Replacement St. Marys Airport

Dear Ma'am or Sir:

Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, the Southern Environmental Law Center (SELC) requests all documents in the possession or control of the U.S. Environmental Protection Agency (EPA) that relate to the Replacement St. Marys Airport in Camden County, Georgia (the Airport). These documents include but are not limited to the following:

- Any documents that relate to any environmental assessment, study, report, and/or determination for the Airport and the proposed alternative site locations for the airport;
- All site plans for the Airport, including plans for the proposed alternative locations for the airport;
- All correspondence relating to the Airport, including any communication between City of St. Marys and its representatives and consultants, EPA, the Federal Aviation Administration, the Army Corps of Engineers, and any other federal or state agency, company, or person relating to the project;
- Any documents relating to the Airport's compliance with the Clean Water Act, the Endangered Species Act, the National Environmental Policy Act, and any other federal or state environmental law; and
- Any other documents that relate to the Airport.



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For the purposes of this request, the term "documents" includes all written, printed, recorded or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of the EPA.

FOIA directs a responding agency to make a "determination" on any request within twenty (20) working days of receipt. See 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should our requests be denied, we request that you inform us of the grounds for denial and the specific administrative appeal rights which are available. See 5 U.S.C. § 552(a)(6)(A)(i).

The FAA granted SELC a waiver of fees for its June 9, 2009 FOIA request. Attached is SELC's letter of appeal for a fee waiver dated August 5, 2009 that was later granted by FAA in the early part of 2010. For the reasons stated below and in the June 9, 2009 letter, SELC is requesting photocopies without charge, or at a reduced charge. Importantly, the reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be "liberally construed" in favor of waivers. McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282, 1284 (9<sup>th</sup> Cir. 1987); Pederson v. Resolution Trust Corp., 847 F. Supp. 851, 855 (D.Colo.1994); Eitlinger v. FBI, 596 F. Supp 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the "roadblocks and technicalities which have been used by various Federal agencies to deny waivers...." Pederson, 847 F. Supp. at 855.

SELC is a 501(c)(3) non-profit organization with over 20 years of experience disseminating public information regarding Corps regulatory and operations issues. See 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. For example, SELC frequently publishes reports and issues press releases regarding its projects (See e.g., "Proposed Naval Warfare Training Range Near Only Nursery for Endangered Right Whale Poses Threat," ([http://www.southernenvironment.org/newsroom/press\\_releases/navy\\_warfare\\_training\\_or\\_only\\_nursery\\_endangered\\_right\\_whale\\_threat/](http://www.southernenvironment.org/newsroom/press_releases/navy_warfare_training_or_only_nursery_endangered_right_whale_threat/)). Lawyers at SELC are interviewed by the media to explain their work and its significance. (See e.g., "Judge Rejects Coal Plant Permits," Georgia Public Broadcasting, July 26, 2010, (<http://www.gpb.org/news/2010/07/26/judge-rejects-coal-plant-permits>)). SELC's website contains documents generated by SELC for the specific purpose of educating the public on particular issues. (See e.g., "Drought in the South: Planning for a Water-Wise Future," ([http://www.southernenvironment.org/uploads/publications/drought\\_paper\\_09-08-08.pdf](http://www.southernenvironment.org/uploads/publications/drought_paper_09-08-08.pdf))). SELC also assists the public in locating information relating to a particular



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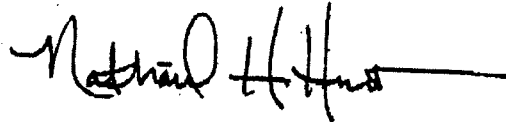
topic by collecting and posting relevant information, documents, and links to other websites.

All of this information is available for free to any interested member of the public. SELC staff members also educate the public by speaking at conferences and other public meetings about environmental and natural resource issues in the Southeast. A fee waiver clearly will benefit the general public through increased notice and understanding of the operations of the government and of potential or proposed major policy incentives. SELC further certifies that disclosure of the information sought is not primarily in the commercial interest of the requester.

Should SELC's request for reduced or waived fees be denied, SELC is prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$100. We request that all records compiled pursuant to this request be sent to the address above. SELC reserves its right to appeal a fee waiver or reduction denial.

Thank you for your assistance in this matter. Should you have any questions, please feel free to contact me at 404-521-9900, or via email at [nhunt@selcga.org](mailto:nhunt@selcga.org). My facsimile number is 404-521-9909.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathaniel H. Hunt", followed by a horizontal line.

Nathaniel H. Hunt  
Staff Attorney





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
1200 Pennsylvania Avenue, NW (2822T)  
WASHINGTON, DC 20460

May 26, 2011

Mr. Nathaniel H. Hunt  
Southern Environmental Law Center  
127 Peachtree Street, Suite 605  
The Candler Building  
Atlanta, GA 30303-1800

RE: Request No. 04-FOI-00513-11

Dear Mr. Hunt:

This is in response to your Freedom of Information Act (FOIA) request, 5 U.S.C. 552 seeking records related to the Replacement St. Mary Airport in Camden County, Georgia and for a waiver of fees in connection with that request.

The FOIA directs agencies to furnish records without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. 5 U.S.C. 552(a)(4)(A)(iii)(1994 & Supp. IV 1998).

Requests for fee waivers must be considered **on a case-by-case basis** and address the requirements for a fee waiver in sufficient detail for the agencies to make an informed decision. In determining whether the statutory requirements are met, agencies must consider six factors in sequence. These factors are summarized below.

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government. A request for access to records for their informational content alone does not satisfy this factor.
2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.



3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.
4. The disclosure must contribute "significantly" to public understanding of government operations or activities.
5. The extent to which disclosure will serve the requester's commercial interest, if any.
6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

Should you wish to receive a fee waiver, you must address, in sufficient detail, these six factors. You may send your response by email to [hq.foia@epa.gov](mailto:hq.foia@epa.gov), or by facsimile to this office (202) 566-2147. If we do not hear from you within 7 days from the date of this letter, we will deny your request for a waiver of fees based on insufficient justification. Records will be sent if you have provided assurance of payment should fees exceed \$25.00.

If you have any questions, please contact the Requester Service Center at [hq.foia@epa.gov](mailto:hq.foia@epa.gov), or call 202-566-1667.

Sincerely,

Larry F. Gottesman  
National FOIA Officer





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

June 2, 2011

OFFICE OF  
ENVIRONMENTAL INFORMATION

Mr. Nathaniel Hunt  
Southern Environmental Law Center  
127 Peachtree Street, Suite 605  
The Candler Building  
Atlanta, GA 30303-1800

RE: Request Number 04-FOI-00513-11

Dear Mr. Hunt:

This is in response to your request for a fee waiver in connection with your Freedom of Information Act (FOIA) request to the U.S. Environmental Protection Agency (EPA) Region 4 seeking a copy of records regarding the Replacement St. Mary Airport in Camden County, Georgia.

We have reviewed your submission and based on the information provided, we are granting your request for a waiver of fees. However, this fee waiver does not include a waiver of fees for otherwise publically available records. The EPA Region 4 office in Atlanta, GA will be responding to your information request for the Agency.

If you have any questions concerning this fee waiver determination, please contact me at (202) 566-1667.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry F. Gottesman", is written over the word "Sincerely,".

Larry F. Gottesman  
National FOIA Officer